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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 93**

**[Docket No. FAA-2014-1073; Notice No. 14-11A]**

**RIN 2120-AJ89**

**Slot Management and Transparency for LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport; Extension of Comment Period; Availability of Further Data; Request for Public Meeting**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking; Extension of comment period.

**SUMMARY:** This action extends the comment period for a notice of proposed rulemaking (NPRM) published on January 8, 2015. In the NPRM, the U.S. Department of Transportation (DOT) and the FAA proposed to replace the Orders limiting scheduled operations at John F. Kennedy International Airport (JFK) and Newark Liberty International Airport (EWR), and limiting scheduled and unscheduled operations at LaGuardia Airport (LGA). The Orders are scheduled to expire when the rulemaking is final and in effect, but not later than October 29, 2016. The proposed rule is intended to provide a longer-term and comprehensive approach to slot management at JFK, EWR, and LGA.

The FAA has also placed further information in support of the proposal in the docket for this rulemaking.

Finally, this document responds to a request for a public meeting regarding this rulemaking.

**DATES:** The comment period for the NPRM is extended until May 8, 2015.

**ADDRESSES:** You may send comments identified by docket number FAA-2014-1073 using any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.
- **Mail:** Send comments to Docket Operations, M-30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue, SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.
- **Hand Delivery or Courier:** Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- **Fax:** Fax comments to Docket Operations at 202-493-2251.

*Privacy:* In accordance with 5 USC 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

*Docket:* Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this action, contact Molly Smith, Office of Aviation Policy and Plans, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3274; email [molly.w.smith@faa.gov](mailto:molly.w.smith@faa.gov); Susan Pfingstler, System Operations Services, Air Traffic Organization, Federal Aviation Administration, 600 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-6462; email [susan.pfingstler@faa.gov](mailto:susan.pfingstler@faa.gov); or Peter Irvine, U.S. Department of Transportation, Office of Aviation Analysis, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-3156; email: [peter.irvine@dot.gov](mailto:peter.irvine@dot.gov).

For legal questions concerning this action, contact Bonnie Dragotto, Office of the Chief Counsel, Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3808; email [bonnie.dragotto@faa.gov](mailto:bonnie.dragotto@faa.gov); or Cindy Baraban, U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-9159; email [cindy.baraban@dot.gov](mailto:cindy.baraban@dot.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Background**

On January 8, 2015, the DOT and the FAA published an NPRM entitled “Slot Management and Transparency for LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport” (80 FR 1274). Comments regarding the proposal were to be received on or before April 8, 2015.

By letters posted to the public docket, Airlines for America and the International Air Transport Association, as well as the Airports Council International-North America, American Association of Airport Executives, the Port Authority of New York and New Jersey (Port Authority), and the Regional Plan Association, have requested that the comment period for the NPRM be extended for an additional 60 days up to and including June 8, 2015. In support of the extension request, the petitioners noted that the NPRM was lengthy and technical in nature, and included approximately 40 questions for comment, some of which require the public to analyze the impact of the provisions on operations at the affected airports and submit supporting data and analysis of the anticipated impacts.

While the DOT and the FAA concur with the petitioners' requests for an extension of the comment period for the NPRM, we are not persuaded that an additional 60 days is necessary to provide comment on this proposal. The DOT and the FAA find that providing an additional 30 days is sufficient for these petitioners to analyze the NPRM and provide meaningful comment.

Absent unusual circumstances, we do not anticipate any further extension of the comment period for this rulemaking.

### **Request for Data and Analysis**

The petitioners also requested that the FAA provide certain data and analysis referenced in the NPRM and the regulatory impact analysis (RIA) accompanying the rule. Specifically, the petitioners requested that the FAA provide all models, data and analysis, including the MITRE queuing models and the University of Maryland (UMD) Delay Model, as well as the raw data used in the model to forecast the impact of the changes as a result of the proposed use-or-lose requirement.

As described in the NPRM, MITRE Center for Advanced Aviation System Development (CAASD) Modeling and Analysis conducted a series of operational analyses and modeling for the FAA. In response to the petitioners' requests, the following documents have been placed in the docket for this rulemaking:

- Overview of MITRE Queuing Delay Model;
- Modeling reflecting Summer 2008 Orders Limiting Scheduled Operations at JFK and EWR;
- Additional Scheduled Operations Analysis for JFK and EWR;
- Airport Runway Capacity Analyses for JFK, LGA, and EWR;
- Operational Performance Analyses for JFK, LGA, and EWR; and
- Historical Unscheduled Traffic Counts at JFK, LGA, and EWR.

The FAA has also placed the UMD Delay Model and supporting data, as used in the RIA, in the docket for this rulemaking.

Additionally, the Port Authority requested slot utilization records including slot holder, operator, and terms of any slot lease and trade agreements in a form such as a Microsoft Excel spreadsheet or Microsoft Access database. The FAA does not track or maintain slot information in the form and manner as requested. The FAA also does not have information on the terms of slot leases or trade agreements, as the current Orders do not require carriers to submit terms to the FAA. Nonetheless, additional information to address this request has been placed in the docket, including information to help the public understand this proposal as well as information relied upon by the agency in developing the NPRM. This additional information includes:

- Slot allocation reports for summer and winter seasons from 2009-2012 (January and July) for JFK, LGA, and EWR.
- Uneven slot transfers at JFK, LGA, and EWR from 2009-2012 reflecting slots that were transferred between carriers on other than a one-for-one basis at the same airport. Transfers between carriers under unified market control, such as mainline and regional partners, are not included in the uneven transfer lists.
- Slot allocation reports for Mondays in August 2009 to reflect the analysis of scheduled and actual operations compared to allocated slots as discussed in the RIA.
- Scheduled flight information from FAA's Innovata data base for Mondays in August 2009. Slot usage information is submitted to the FAA in various formats by carriers to report their actual operations using an allocated slot. Under current practice, the FAA uses this information along with supporting FAA air traffic control and operational data to determine if the minimum usage requirement has

been met by a particular operator. The FAA uses information on actual and planned flights, rather than carrier slot usage reports, for operational and historical trend analyses at slot controlled airports.<sup>1</sup> Scheduled demand was compared to allocated slots, as discussed in the RIA. Information on published schedules for other dates is available from commercial and other sources outside the FAA.

### **Request for Public Meeting**

By letter posted to the public docket on February 17, 2015, the National Air Transportation Association requested that the DOT and the FAA hold a public meeting to allow affected stakeholders to ask clarifying questions and discuss the NPRM. The DOT and the FAA have carefully considered this request.

In light of the comment period extension and additional information provided for review, analysis, and comment, the DOT and the FAA will not hold a public meeting at this time. We encourage all interested persons to submit detailed comments on the NPRM to the docket. All comments submitted to the docket will be considered by the agency in developing a final rule. The submission of comments to the public docket provides the most transparent means for all interested parties to participate at this stage in the rulemaking process.

### **Extension of Comment Period**

In accordance with § 11.47(c) of title 14, Code of Federal Regulations, the DOT and the FAA have reviewed the petitions for an extension of the comment period for the

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<sup>1</sup> The NPRM discusses slot usage reporting practices permitted under the current Orders, which allow carriers to optimize slot use by distributing flights between all the slots the carrier holds in a particular half-hour slot time. 80 FR 1287 (Jan. 8, 2015). The FAA observes the results of this practice using operational data.

proposal. The petitioners have shown a substantive interest in the proposed rule and good cause for extending the comment period.

Accordingly, the comment period for the NPRM is extended until May 8, 2015.

## **Additional Information**

### **Comments Invited**

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the DOT and the FAA will consider all comments received on or before the closing date for comments. We will also consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this proposal in light of the comments it receives.

*Proprietary or Confidential Business Information:* Do not file proprietary or confidential business information in the docket. Such information must be sent or



delivered directly to the person identified in the FOR FURTHER INFORMATION CONTACT section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD ROM, mark the outside of the disk or CD ROM, and identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under the DOT procedures found in 49 CFR part 7.

#### Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

1. Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visiting the FAA's Regulations and Policies web page at [http://www.faa.gov/regulations\\_policies](http://www.faa.gov/regulations_policies) or
3. Accessing the Government Printing Office's web page at <http://www.gpo.gov/fdsys/>.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW.,

Washington, DC 20591, or by calling (202) 267-9680. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced in item (1) above.

Issued under authority provided by 49 U.S.C. 106(f) in Washington, DC, on March 3, 2015.

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